

Supreme Court of the United States.

No. 182.—OCTOBER TERM, 1905.

The Territory of New Mexico, Appellant,	}	Appeal from the Supreme Court of the Territory of New Mexico.
<i>vs.</i>		
The Atchison, Topeka and Santa Fe Rail- way Company, The Rio Grande, Mexico and Pacific Railroad Company, and The Silver City, Deming and Pacific Railroad Company.		

[March 12, 1906.]

Mr. Chief Justice FULLER delivered the opinion of the Court :

The Territory of New Mexico commenced three separate actions against appellees, respectively, in the District Court of Grant County, New Mexico, to recover taxes alleged to be due on a levy to pay certain judgments against the county, including a particular item of \$276.21, arising from the increase of the valuation of the property of the railroad companies. The aggregate amount claimed was \$8,646.49 with interest at the rate of twenty-five per cent per annum. The cases were consolidated and submitted to the District Court on an agreed statement of facts with exhibits attached, a jury being waived, and resulted in a judgment, October 9, 1902, for \$5,156.71 with interest at six per cent per annum. This included the \$276.21 with interest. Appellees sued out writs of error from the Supreme Court of the Territory. No cross writ of error was brought and no cross errors were assigned. In the Supreme Court the item of \$276.21 with interest was not contested. February 26, 1903, the Supreme Court announced its conclusion that the judgment be reversed, but as the item of \$276.21 was not contested, rendered judgment for that amount, thereby rejecting the sum of \$4,880.50 of the judgment below, that sum with interest at six per cent amounting to less than five thousand dollars on that date. 72 Pac. Rep. 14. From the judgment so rendered the Territory prosecuted an appeal to this court, under the act of Congress in that behalf, January 17, 1905, and prayed in its assignment of errors that the judgment of the Supreme Court be reversed and set aside, and the cause be "remanded to said Supreme Court, with directions to affirm the judgment of the District Court of Grant County." The appeal was heard in this court on January 26, 1906, and on that day appellant filed an additional assignment of errors to the effect that the Supreme Court of New Mexico erred in failing to hold that appellant was entitled to interest at the rate of twenty-five

per cent per annum from October 9, 1902. But the judgment of the District Court gave interest at six per cent, and, as before stated, the Territory did not complain of that judgment as rendered.

By the act of March 3, 1885, (23 Stat. 443, c. 355,) no appeal or writ of error could be allowed from any judgment or decree of the Territorial Supreme Courts, with certain exceptions not material here, "unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars." The matter in dispute here was that part of the judgment of the District Court which was disallowed by the Supreme Court and that was less than five thousand dollars.

Appeal dismissed.

True copy.

Test :

Clerk Supreme Court, U. S.

